

## REMARKS

This Preliminary Amendment With Remarks is being filed with a Request for Continued Examination (RCE) pursuant to 37 C.F.R. §1.114. Claims 1-13 are pending and stand rejected. Applicant respectfully requests reconsideration of the present application in view of the amendments set forth above and the remarks below.

### Amendments to the Claims

Applicant amends independent claim 1 to clarify the claim language, and to clarify that the templates are positioned on the facial image, and each template can be used to outline features on the image. No new matter is added.

### Claim Rejections

#### Independent Claim 1

The Examiner continues to reject claims 1-5 pursuant to 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,293,284 of Rigg. In the Advisory Action mailed February 26, 2004, the Examiner argues that Rigg disclose a plurality of templates corresponding to features on a facial image. The Examiner refers to the specification to interpret the claimed step of providing a plurality of templates as “a step that helps the user to locate different areas on the facial image.” The Examiner then argues that Rigg discloses a program that locates color requiring areas, such as the lips, cheeks, and eyes. Applicant disagrees.

The Examiner is ignoring the limitations recited in claim 1, and is improperly relying on the specification to reject the claims as being anticipated by Rigg. Claim 1 recites the step of *positioning a plurality of templates on a facial image*. While the templates help a user locate different areas on the facial image, Rigg cannot anticipate claim 1 because Rigg does not disclose the claimed step of *positioning a plurality of templates on a facial image*. Thus, the Examiner’s assertion that Rigg discloses a program that locates color requiring areas is

irrelevant. Rigg does not teach or even suggest positioning a plurality of templates on a facial image, much less allowing the user to modify the templates to *outline* features on the facial image. In fact, Rigg does not teach the use of any type of templates, but rather Rigg discloses a virtual makeover that utilizes digital scanning software to *electronically* identify those areas of a facial image upon which color cosmetics can be applied. This is achieved by identifying the natural skin color of the person in the facial image, thereby establishing a “color matching facial foundation for building the first stage of a color makeover.” (Col. 2, lines 62-63.) The user can then select from a stored set of colors that match the person’s skin type, thereby automatically applying lipstick, eye shadow, etc. to areas *electronically identified* by the software program. The disclosed makeover method does not allow the user to select and outline specific facial features using templates, as taught and claimed by the present invention.

Accordingly, claim 1 is not anticipated by Rigg and represents allowable subject matter. Claims 2-5 are allowable at least because they depend from an allowable base claim.

Independent Claim 6

The Examiner continues to reject claims 6-13 pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,854,850 of Linford et al. (Linford). In the Advisory Action mailed February 26, 2004, the Examiner again improperly refers to the specification, rather than relying on limitations in the claim, to form a basis for rejecting independent claim 6. In particular, the Examiner argues that the term “features,” as set forth in the specification, means various, discrete regions of a person’s face to which one or more beauty products are applied, and that the shape of each feature can be altered or outlined by a user. The Examiner thus relies on Linford, arguing that Linford discloses methods for modifying features. Applicant disagrees.

While Linford does disclose methods for modifying features, as submitted by the Examiner, Linford does not disclose the claimed step of *providing a plurality of pre-configured shapes*. Claim 6 also recites the step of enabling a user to move points on each shape to outline a feature on the image. Linford does not teach or even suggest the use of any type of pre-configured shapes, much less the step of allowing a user to change the shapes to outline facial

features. Rather, Linford utilizes pixel manipulation to pull pixels from one area to another. This allows the user to move *pixels* to change the shape of, for example, a persons' chin or lips. While a pen is used to draw lines, the lines are not pre-configured shapes that can be used to outline features. Rather, as a line is drawn, the pixels on the image are manipulated to move toward the line, thus modifying actual feature on the facial image.

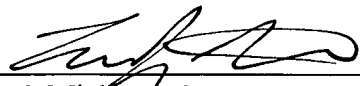
Accordingly, claim 6 is not anticipated by Linford and therefore represents allowable subject matter. Claims 7-13 are allowable at least because they depend from an allowable base claim.

**Conclusion**

In view of the amendments and remarks above, Applicant submits that claims 1-13 are in condition for allowance. Applicant encourages the Examiner to telephone the undersigned in the event that such communication might expedite prosecution of this matter.

Respectfully submitted,

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